

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ANDREW MACLACHLAN #844474,

Plaintiff,

Case No. 1:21-cv-461

v.

HONORABLE PAUL L. MALONEY

S.L. BURT, et al.,

Defendants.

/

**ORDER ADOPTING REPORT AND RECOMMENDATION**

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. Defendant Kludy filed a motion for summary judgment. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation on August 31, 2023, recommending that this Court grant the motion, dismiss as to the unnamed and unserved members of the Muskegon Correctional Facility (“MCF”) Emergency Response Team (“ERT”), and enter judgment.<sup>1</sup> The Report and Recommendation was duly served on the parties. No objections have been filed. *See* 28 U.S.C. § 636(b)(1). Therefore,

**IT IS HEREBY ORDERED** that the Report and Recommendation (ECF No. 44) is APPROVED and ADOPTED as the Opinion of the Court.

**IT IS FURTHER ORDERED** that Defendant Kludy’s motion to strike the Bottomley Affidavit (ECF No. 39) is DENIED.

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<sup>1</sup> The court previously dismissed all defendant except Defendant Kludy and unknown members of the MCFRT (ECF No. 12)

**IT IS FURTHER ORDERED** that the Motion for Summary Judgment (ECF No. 23) is GRANTED.

**IT IS FURTHER ORDERED** that the unnamed and unserved members of the MDF Emergency Response Team are DISMISSED. This action is TERMINATED.

**IT IS FURTHER ORDERED** that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith. See *McGore v. Wigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

A Judgment will be entered consistent with this Order.

Dated: September 19, 2023

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge